

Message Text

LIMITED OFFICIAL USE

PAGE 01 KUWAIT 01273 01 OF 03 041423Z

ACTION IO-14

INFO OCT-01 NEA-10 ISO-00 OIC-02 CCO-00 CIAE-00
OTPE-00 EB-08 FCC-01 INR-10 NSAE-00 OC-06 USIA-06
COME-00 BIB-01 DOE-11 ACDA-12 DODE-00 PM-05 L-03
NASA-01 NSC-05 SOE-02 SS-15 OES-07 DOTE-00 FMC-01
CG-00 DLOS-09 AF-10 ARA-10 EA-10 EUR-12 OMB-01
TRSE-00 /173 W

-----117796 041434Z /41

R 041220Z MAR 78

FM AMEMBASSY KUWAIT

TO SECSTATE WASHDC 358

LIMITED OFFICIAL USE SECTION 1 OF 3 KUWAIT 1273

FROM US DEL

E.O. 11652: N/A

TAGS: OCON, IMCO

SUBJECT: THIRD SESSION, ORGANIZATIONAL PANEL OF INMARSAT
PREPARATORY COMMITTEE

1. SUMMARY: THE THIRD PANEL SESSION OF SUBJECT COMMITTEE
ACCOMPLISHED CONSIDERABLE WORK, ALMOST ALL OF IT
SATISFACTORY FROM THE U.S. VIEWPOINT. CONSIDERABLE WORK
REMAINS FOR THE FOURTH AND FINAL SESSION, PARTICULARLY
SINCE, CONTRARY TO PLAN, WORK WAS NOT COMPLETED ON THE
HEADQUARTERS AGREEMENT. THE U.S. SUCCESSFULLY COUNTERED A
PROPOSAL FOR AN INTERSESSIONAL MEETING TO COMPLETE THE
LATTER TASK. END SUMMARY.

2. RULES OF PROCEDURE. IT WAS DECIDED TO GIVE PRIORITY
TO COUNCIL RULES AS BEING BOTH MORE IMPORTANT AND NECESSARY
THAN ASSEMBLY RULES. THE PRIMARY TEXT REVIEWED BY A
WORKING GROUP WAS A JOINT USSR/NORWAY DRAFT, LARGELY BASED
ON UN PROCEDURAL RULES. A CANADIAN TEXT, BASED ON INTELSAT
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 KUWAIT 01273 01 OF 03 041423Z

RULES AND FAVORED BY THE U.S., WAS BASED ON INTELSAT RULES
AND FAVORED BY THE U.S., WAS ALSO AVAILABLE. THE U.S., AIDED
BY CANADA, AUSTRALIA AND OTHERS, WAS MOSTLY SUCCESSFUL IN
GAINING ACCEPTANCE OF BUSINESS-LIKE RULES SUITABLE FOR THE
COUNCIL TO CONDUCT ITS WORK EFFICIENTLY. WHILE THERE ARE SOME
PROVISIONS STILL IN DISPUTE, THE RULES ARE BASICALLY QUITE
SATISFACTORY. AFTER THE ASSEMBLY RULES ARE DRAFTED AT THE

NEXT PANEL SESSION, BOTH SETS OF RULES WILL HAVE TO BE REVIEWED FOR CONSISTENCY.

3. MANAGEMENT ARRANGEMENTS. U.S. WAS SUCCESSFUL IN HAVING DISCUSSION OF THE VARIOUS ISSUES CONCERNING MANAGEMENT DEFERRED UNTIL THE END OF THE CURRENT MEETING OR TO THE FOURTH MEETING OF THE ORGANIZATIONAL PANEL IN VARNA. THIS WAS DONE TO PERMIT THE CURRENT SESSION TO CONCENTRATE ON FINISHING OTHER ISSUES, LEAVING MAXIMUM TIME TO DISCUSS MANAGEMENT AT VARNA, WITH THE BENEFIT OF THE LATEST INFORMATION CONCERNING THE VARIOUS SPACE SEGMENT OPTIONS OPEN TO INMARSAT. IT WAS AGREED THE FOURTH SESSION MUST ASSESS THE IMPACT ON MANAGEMENT ARRANGEMENTS OF EACH OF THE THREE SPACE SEGMENT OPTIONS OPEN TO INMARSAT: 1) JOINT VENTURE; 2) INTELSAT AND 3) INMARSAT ESTABLISHING ITS OWN SPACE SEGMENT.

4. LATE IN THE SESSION THERE WAS SOME INCONCLUSIVE DISCUSSION OF THE DIFFERENCES BETWEEN THE JOINT VENTURE AND INTELSAT OPTIONS. THE U.K. INDICATED MARKED ANTIPATHY TO THE INTELSAT OPTION, WHILE THE USSR EXPRESSED A PREFERENCE FOR THE JOINT VENTURE, APPARENTLY FEELING THAT IT HAD A CLOSER POTENTIAL TIE TO INMARSAT.

5. STAFF AND FINANCIAL REGULATIONS. A WORKING GROUP DISCUSSED THESE REGULATIONS FOR THE FIRST TIME. STAFF LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 KUWAIT 01273 01 OF 03 041423Z

REGULATIONS PREPARED BY CANADA AND DENMARK (BASED ON INTELSAT AND ESA REGULATIONS) WERE DISCUSSED AND REVISED. THEY WILL BE REVIEWED AT THE FOURTH SESSION, BUT LITTLE FURTHER WORK APPEARS NECESSARY. FINANCIAL REGULATIONS PREPARED BY THE ECONOMIC PANEL WERE REVIEWED BUT NO ATTEMPT WAS MADE TO REWRITE THEM. THE WORKING GROUP PREPARED SOME GENERAL COMMENTS, PARTICULARLY CONCERNING THE NEED FOR COORDINATION. IT ALSO DETERMINED AFTER REVIEW THAT THERE WERE NO CONFLICTS BETWEEN THESE REGULATIONS AND THE PROCUREMENT REGULATIONS PREPARED BY THIS PANEL.

6. MISCELLANEOUS. LEGAL ISSUES WERE RAISED RELATING TO THE TIME FOR RATIFICATION OF THE CONVENTION AND THE EFFECT OF SOME COUNTRIES POSSIBLY OPTING FOR HIGHER INITIAL INVESTMENT SHARES PURSUANT TO THE PROVISIONS OF SECTION (B) OF THE ANNEX TO THE OPERATING AGREEMENT. AFTER SOME PRELIMINARY DISCUSSION, IT WAS AGREED TO DISCUSS THESE ISSUES AT THE FOURTH SESSION.

7. PROCUREMENT REGULATIONS. AFTER CONSIDERATION BY A WORKING GROUP (U.S. CHAIRMAN), PANEL UNANIMOUSLY ADOPTED DRAFT PROCUREMENT REGULATIONS. MAJOR PROBLEM CONCERNING

EARLIER CANADIAN PROPOSAL THAT COULD HAVE HAD ADVERSE CONSEQUENCES FOR U.S. CONTRACTOR IN CONNECTION WITH OMC CLEARANCES SOLVED WITH FOLLOWING NEW LANGUAGE FOR ARTICLE II.D: QUOTE D. APPLICABILITY OF NATIONAL LAWS. THE POTENTIAL SUPPLIER WILL BE REQUIRED TO SPECIFY THE EXTENT TO WHICH A CONTRACT EXECUTED IN ACCORDANCE WITH THE TERMS OF ITS BID WILL SATISFY ALL APPLICABLE NATIONAL LAWS AND REGULATIONS. UNQUOTE.

A. ONLY OTHER CHANGES WERE MINOR EDITORIAL POINTS AND DELETION OF ARTICLE IV. C.

B. PANEL ALSO CONSIDERED ECONOMIC PANEL CONSIDERATION OF EXCHANGE RATE FLUCTUATION ISSUE, AGREED WITH ITS ANALYSIS AND PANEL CONCLUDED THAT PARTICULAR MEANS FOR MINIMIZING RISKS OF CURRENCY FLUCTUATIONS FOR INMARSAT AND LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 KUWAIT 01273 01 OF 03 041423Z

POTENTIAL SUPPLIERS SHOULD BE ADOPTED AT TIME PROCUREMENT ACTION BEING UNDERTAKEN.

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 KUWAIT 01273 02 OF 03 041433Z
ACTION IO-14

INFO OCT-01 NEA-10 ISO-00 OIC-02 CCO-00 CIAE-00
OTPE-00 EB-08 FCC-01 INR-10 NSAE-00 OC-06 USIA-06
COME-00 BIB-01 DOE-11 ACDA-12 DODE-00 PM-05 L-03
NASA-01 NSC-05 SOE-02 SS-15 OES-07 DOTE-00 FMC-01
CG-00 DLOS-09 AF-10 ARA-10 EA-10 EUR-12 OMB-01
TRSE-00 /173 W

-----117874 041436Z /41

R 041220Z MAR 78
FM AMEMBASSY KUWAIT
TO SECSTATE WASHDC 359

LIMITED OFFICIAL USE SECTION 2 OF 3 KUWAIT 1273

8. PRIVILEGES AND IMMUNITIES. WORKING GROUP I MET IN KUWAIT FROM FEBRUARY 26 THROUGH MARCH 2 AND EXAMINED IN TOTAL THE DRAFT PROTOCOL ON PRIVILEGES AND IMMUNITIES OF INMARSAT. AS FAR AS POSSIBLE, A REFLECTION OF THE CONSENSUS OF THE

GROUP ON VARIOUS ISSUES WAS RECORDED IN A NEW TEXT, SUBMITTED AS AN ANNEX TO THE GROUP'S REPORT TO THE ORGANIZATIONAL PANEL. EVERY EFFORT WAS MADE TO ELIMINATE BRACKETED LANGUAGE (I.E., THAT REQUIRING FURTHER STUDY AND CONSIDERATION, AND MINORITY VIEWS, WERE SET FORTH IN NOTES TO THE PROPOSED FINAL TEXTS.) (NOTE: THE GROUP'S CHAIRMAN FOLLOWED A LIBERAL POLICY IN PERMITTING NOTES, THUS ALLOWING EVERY SIGNIFICANT VIEW TO BE REFLECTED IN ONE WAY OR ANOTHER.)

A. THE MOST IMPORTANT DECISIONS OF THE GROUP RELATED TO THE FOLLOWING: I) IMMUNITY OF THE ORGANIZATION: A MAJORITY OF DELEGATES FAVORED RETENTION OF THE ORIGINAL DRAFT, PERMITTING SUIT AGAINST THE ORGANIZATION BY OUTSIDE PARTIES IN STATES IN WHICH THE ORGANIZATION ENGAGES IN CERTAIN SPECIFIED ACTIVITIES. A LARGE MINORITY OF DELEGATIONS FAVORED THE U.S. PROPOSAL WHICH WOULD LIKEN INMARSAT'S IMMUNITY TO THAT ACCORDED FOREIGN GOVERNMENTS. A MAJORITY LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 KUWAIT 01273 02 OF 03 041433Z

OF DELEGATES ALSO FAVORED INCLUDING A LIMITED IMMUNITY FROM EXPROPRIATION FOR PROPERTY AND ASSETS OF THE ORGANIZATION, SUBJECT TO THE CONDITION THAT THE EXPROPRIATING PARTY LIMIT SUCH ACTION TO PURPOSES OF NATIONAL DEFENSE AND PUBLIC POLICY AND THE FURTHER CONDITION THAT FAIR AND PROMPT COMPENSATION BE PAID THE ORGANIZATION.

II) TAXATION OF THE ORGANIZATION. A MAJORITY AGREED TO LIMITATION OF TAX EXEMPTIONS FOR PROPERTY AND INCOME USED WITHIN THE SCOPE OF OFFICIAL ACTIVITIES TO NATIONAL TAXATION. THE SAME LIMITATION WOULD BE APPLIED TO TAXATION OF PAYMENTS FROM THE ORGANIZATION TO SIGNATORIES (OTHER THAN THE SIGNATORY REPRESENTING THE AFFECTED PARTY).

III) CUSTOMS EXEMPTIONS FOR THE ORGANIZATION. MOST DELEGATIONS PREFERRED LIMITATION OF THE EXEMPTION OF ITEMS NECESSARY IN CONNECTION WITH A LAUNCH (INCLUDING ITS PREPARATION), OR LIMITATION TO ITEMS INTENDED FOR ACTUAL LAUNCH AS REQUIRED BY THE CONVENTION. THE U.S. SUPPORTS THE LATTER VIEW. ALL BUT THE U.S. DELEGATION FAVORED AN ADDITIONAL EXEMPTION FOR "ADMINISTRATIVE ACTIVITIES," THE U.S. DEL RESERVING ON THE GROUND THAT FAILURE TO DEVISE AN ADEQUATE DEFINITION OF THESE ACTIVITIES WOULD CREATE PRACTICAL PROBLEMS FOR CUSTOMS OFFICIALS, AS HAS ALREADY BEEN THE CASE IN U.S. PRACTICE (I.E., UNDER THE INTELSAT HEADQUARTERS AGREEMENT).

IV) IMMUNITY OF REPRESENTATIVES. THERE WAS A COMPROMISE FORMULATION ON IMMUNITY FROM ARREST OR DETENTION FOR REPRESENTATIVES OF PARTIES BY LIMITING SUCH IMMUNITY TO THE PERIOD "PENDING TRIAL, EXCEPT IN THE CASE OF A GRAVE OFFENSE." (THE U.S., WHICH HAD STEADFASTLY OPPOSED ANY SUCH IMMUNITY FOR REPRESENTATIVES, PROPOSED THIS LIMITATION AND SUPPORTED THE COMPROMISE.) A BARE MAJORITY VOTED TO ELIMINATE ANY

PRIVILEGES AND IMMUNITIES FOR MEMBERS OF THE STAFFS OF
REPRESENTATIVES OF PARTIES, SO THE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 KUWAIT 01273 02 OF 03 041433Z

ORIGINAL FORMULATION ON THIS ISSUE WAS PLACED IN A NOTE
TO THE DELETED PROVISION. THE U.S. RENEWED ITS
PROPOSAL TO GRANT THE SAME PRIVILEGES AND IMMUNITIES TO
REPRESENTATIVES OF SIGNATORIES AS TO REPRESENTATIVES OF
PARTIES AND FILED AN APPROPRIATE NOTE IN THIS REGARD.
V.) IMMUNITY OF THE DIRECTOR GENERAL: THE CONSENSUS OF THE
GROUP WAS TO GRANT TO THE DIRECTOR GENERAL CERTAIN ADDITIONAL
IMMUNITIES, NORMALLY ACCORDED A DIPLOMATIC AGENT, WITH CERTAIN
STATES EXCEPTIONS RELATING TO OPERATION OF MOTOR VEHICLES.
THE DIRECTOR GENERAL WOULD ENJOY PERSONAL IMMUNITY FROM ARREST
OR DETENTION PENDING TRIAL. (IT WAS ALSO AGREED TO ADOPT
THE SAME DEGREE OF IMMUNITY FOR THE DIRECTOR GENERAL IN
THE APPROPRIATE ARTICLE OF THE HEADQUARTERS AGREEMENT.)
B. DISPUTES SETTLEMENT: THIS ISSUE WAS FOR THE FIRST TIME
ADDRESSED IN DETAIL BY THE WORKING GROUP. A COMPROMISE
FORMULA WAS AGREED TO, WHEREBY, DISPUTES WOULD BE RESOLVED
THROUGH NEGOTIATION AND, FAILING SUCCESS AT THAT EFFORT,
THROUGH ARBITRATION, USING A PANEL OF THREE ARBITRATORS.
THE MORE DETAILED ARBITRATION PROCEDURES INCORPORATED IN THE
INMARSAT AGREEMENT WERE, HOWEVER, SOUNDLY REJECTED.

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 KUWAIT 01273 03 OF 03 041500Z
ACTION IO-14

INFO OCT-01 NEA-10 ISO-00 OIC-02 CCO-00 CIAE-00
OTPE-00 EB-08 FCC-01 INR-10 NSAE-00 OC-06 USIA-06
COME-00 BIB-01 DOE-11 ACDA-12 DODE-00 PM-05 L-03
NASA-01 NSC-05 SOE-02 SS-15 OES-07 DOTE-00 FMC-01
CG-00 DLOS-09 AF-10 ARA-10 EA-10 EUR-12 OMB-01
TRSE-00 /173 W

-----118038 041519Z /50

R 041220Z MAR 78
FM AMEMBASSY KUWAIT
TO SECSTATE WASHDC 360

LIMITED OFFICIAL USE SECTION 3 OF 3 KUWAIT 1273

C. FINAL PROVISIONS: ALTHOUGH THERE WAS SOME DISCUSSION OF THE DESIRABILITY OF A DENUNCIATION PROVISION AND THE DESIRABILITY OF TYING DURATION OF THE PROTOCOL TO THAT OF THE INMARSAT AGREEMENT, FINAL DECISIONS ON THESE QUESTIONS WERE DEFERRED.

D. HEADQUARTERS AGREEMENT: A QUICK REVIEW OF OUTSTANDING POINTS OF ISSUE WITH THE U.K. WAS ATTEMPTED, BUT NO FINAL TEXT WAS PREPARED. IT WAS CONCEDED THAT, NOTWITHSTANDING THE DEGREE OF PROGRESS ACHIEVED BY THE WORKING GROUP, THE HEADQUARTERS AGREEMENT WOULD HAVE TO BE NEGOTIATED FULLY WITH THE UK AND, UNDOUBTEDLY, THIS NEGOTIATION WOULD REOPEN SOME OF THE OUTSTANDING ISSUES.

E. FURTHER CONSIDERATION: IT WAS THE OPINION OF MOST MEMBERS OF THE WORKING GROUP THAT THE PROTOCOL AND HEADQUARTERS AGREEMENT SHOULD NOT BE PLACED ON THE AGENDA OF THE FOURTH PANEL MEETING FOR CONSIDERATION BY A WORKING GROUP.

MAESTRONE

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 04 mar 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978KUWAIT01273
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780099-0614
Format: TEL
From: KUWAIT
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197803106/aaaadmhn.tel
Line Count: 297
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: d54d7bb8-c288-dd11-92da-001cc4696bcc
Office: ACTION IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3116862
Secure: OPEN
Status: NATIVE
Subject: THIRD SESSION, ORGANIZATIONAL PANEL OF INMARSAT PREPARATORY COMMITTEE
TAGS: OCON, IMCO
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/d54d7bb8-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014